

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6771

BILL NUMBER: HB 1376

NOTE PREPARED: Mar 25, 2013

BILL AMENDED: Mar 21, 2013

SUBJECT: Various Privacy Issues.

FIRST AUTHOR: Rep. Koch

FIRST SPONSOR: Sen. Steele

BILL STATUS: 2nd Reading - 2nd House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) *Telephone Caller Identification Services*- The bill makes the following changes to the statute concerning telephone caller identification services:

- (1) The bill repeals the definition of "telecommunications service provider".
- (2) The bill adds the definition of "provider" in the statutes concerning: telephone caller identification services; and telephone solicitations.
- (3) The bill replaces the term "caller ID" with the term "caller identification", as used in the federal Caller ID Act of 2009.

Misleading/Inaccurate Caller Information- The bill provides that a person shall not knowingly and with the intent to defraud, or cause harm to another person, or to wrongfully obtain anything of value, cause any caller identification service to transmit misleading or inaccurate caller identification information to a subscriber in Indiana. The bill exempts certain activities from the prohibition.

Misdemeanors & Civil Penalties- The bill provides that a violation of the prohibition is: (1) a Class B misdemeanor; and (2) a deceptive act actionable by the Attorney General. The bill specifies that the Attorney General may recover a civil penalty of not more than \$10,000 for a knowing violation. The bill provides that a subsequent violation is a Class A misdemeanor. The bill provides a cause of action for: (1) damages; and (2) injunctive relief; for any person aggrieved by a violation.

Professional Licensing Agency- The bill prohibits the Professional Licensing Agency (PLA) or a board administered by the PLA from disclosing to the public, personal information of an individual who: (1) applies

for or holds a license, certificate, registration, or permit issued by a board; or (2) is a member of a board administered by the PLA; subject to certain exceptions specified by law. The bill makes conforming amendments.

Effective Date: Upon passage; July 1, 2013.

Explanation of State Expenditures: *Misleading/Inaccurate Caller Information-* The Attorney General may bring more actions against violators to enjoin them from continuing in a fraudulent or misleading act under the bill. (Under the deceptive consumer sales statute, the Attorney General (AG) may bring an action to enjoin a deceptive act.) Marion County Circuit or Superior Court caseloads may increase as a result of this provision.

Explanation of State Revenues: *Misdemeanors-* If additional court cases occur and fines are collected, revenue to both the Common School Fund (from criminal fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class A misdemeanor is \$5,000 and \$1,000 for a Class B misdemeanor.

(Revised) *Civil Penalties-* The AG would be able to recover from a person named in an action up to \$10,000 in civil penalties. Penalties collected under this provision would be deposited in the Consumer Protection Division Telephone Solicitation Fund (TSF). The revenue deposited in the TSF would be used to administer and enforce the provisions in the bill. The TSF is currently used to enforce the state no-call list by solicitors. The TSF is also used to enforce deceptive act violations pertaining to the subject matter in a consumer transaction that is made orally, in writing, or by electronic communication. The TSF had a fund balance of \$1.43 M and had revenues from penalties of \$169,517 at the close of FY 2012.

Misleading/Inaccurate Caller Information- The bill would allow persons aggrieved by a violation to file a civil action in a circuit or superior court within the county of the person's residence or business location.

Court Fees: If additional civil actions occur and court fees are collected, revenue to the state General Fund may increase. A civil costs fee of \$100 would be assessed when a civil case is filed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court.

In addition, some or all of the judicial salaries fee (\$20), public defense administration fee (\$5), court administration fee (\$5), and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund. Revenue from the pro bono services fee (\$1) is transferred by the State Auditor to the Indiana Bar Foundation for use to assist with pro bono legal services programs in Indiana. And proceeds from the automated record keeping fee (\$5) are deposited into the state User Fee Fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

Explanation of Local Expenditures: *Misdemeanors-* If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. A Class A misdemeanor is punishable by up to one year in jail. A Class B misdemeanor is punishable by up to 180 days in jail.

Explanation of Local Revenues: *Misdemeanors-* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees.

Court Fee Revenue: If additional civil actions occur, local governments would receive revenue from the

following sources. The county general fund would receive 27% of the \$100 civil costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge, depending upon the particular type of case.

Persons filing a civil case are also required to pay the following fees that are deposited in local funds.

The document storage fee (\$2) is deposited into the clerk record perpetuation fund.

The following fees are deposited into the general fund of the county in which the court is located:

- Document fees (\$1 per document) are charged for preparing transcripts or copies of record or certificate under seal.
- Service fee (\$10) collected from the filing party for each defendant beyond the first cited in the lawsuit.

State Agencies Affected: Professional Licensing Agency; Attorney General.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources:

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